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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/810,865	03/29/2004	Myrl J. Saarem		9865

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EXAMINER

DUNWOODY, AARON M

ART UNIT	PAPER NUMBER
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3679

DATE MAILED: 08/30/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/810,865	SAAREM, MYRL J.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Aaron M. Dunwoody	3679	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 21 June 2005.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3 and 5-7 is/are rejected.
- 7) ☒ Claim(s) 4 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date: _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date: _____  | 6) <input type="checkbox"/> Other: _____                                    |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-3, 6 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Applicant's prior art Figure 1 in view of US patent 1369913, Brunhoff.

In regards to claim 1, Applicant's prior art Figure 1 discloses a coupling comprising two half shells with gripping means, and a seal. Applicant's prior art Figure 1 does not disclose a plurality of toggle clamps, wherein, actuation of the toggle clamps causes the half shells to encompass and lock together the conduit ends and the seal prevents leakage in or out of the conduit ends. Brunhoff teaches a plurality of toggle clamps (41, 42) "to provide an improved lever mechanism for closing and sealing the joints and applying the strain at both ends of the saving device [half shells]". It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide a plurality of toggle clamps to provide an improved lever mechanism for closing and sealing the joints and applying the strain at both ends of the saving device [half shells], as taught by Brunhoff.

In regards to claim 2, Applicant's prior art Figure 1 discloses the two half shells with gripping teeth containing a plurality of gripping teeth.

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In regards to claim 3, Applicant's prior art Figure 1 discloses the plurality of gripping teeth being saw-toothed shaped circumferential ribs.

In regards to claim 6, Applicant's prior art Figure 1 discloses the two half shells being made of material significantly harder than the soft plastic conduits.

In regards to claim 7, Applicant's prior art Figure 1 discloses the two half shells being made of relatively hard plastic material.

Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Applicant's prior art Figure 1 in view of Brunhoff, in further view of US patent 4898407, Ziedler.

In regards to claim 5, Applicant's prior art Figure 1 in view of Brunhoff disclose the claimed invention except for the two half shells containing circumferential ribs that compress the seal into contact with the conduits. Zeidler teaches two half shells (11) containing circumferential ribs (23, 24, 28) to deform the seal to seal any gaps between the conduits (col. 5, lines 25-44). It would have been obvious to one having ordinary skill in the art at the time the invention was made to fabricate the two half shells with circumferential ribs to deform the seal to seal any gaps between the conduits, as taught by Zeidler.

In regards to claim 8, Applicant's prior art Figure 1 in view of Brunhoff disclose the claimed invention except for a method of rigidly joining abutting ends of relatively soft plastic conduits. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide a method of rigidly joining abutting ends of

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relatively soft plastic conduits, since under the principles of inherency, if a prior art device, in its normal and usual operation, would necessarily perform the method claimed, then the method claimed will be considered to be anticipated by the prior art device. When the prior art device is the same as a device described in the specification, it can be assumed the device will inherently perform the same process. *In re King*, 802 F.2d 1324, 231 USPQ 136 (Fed. Cir. 1986).

#### ***Allowable Subject Matter***

Claim 4 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### ***Response to Arguments***

Applicant's arguments filed 2/7/2005 have been fully considered but they are not persuasive.

In response to applicant's argument that Brunhoff is nonanalogous art, it has been held that a prior art reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). In this case, Brunhoff recites:

My invention relates to improvements in oil saving devices to be employed in withdrawing the pipe or casing of oil wells. One of its objects is to provide a device applicable to the pipe joints while they are being disconnected of sufficiently light weight and convenient size to be readily handled in applying and removing. Another object is to provide a device adaptable to pipes having the same internal diameter but with different outside diameters, as for instance single, extra heavy, and reinforced pipe. Another object is to provide for effecting a sealed joint with both the upper and lower pipe sections where a joint is to be broken. Another object is to provide an improved lever mechanism for closing and sealing the joints and applying the strain at both ends of the saving device. My invention also comprises

Therefore, Brunhoff is analogous art, and meets the claim limitations.

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, Brunhoff teaches a plurality of toggle clamps (41, 42) to provide an improved lever mechanism for closing and sealing the joints and applying the strain at both ends of the saving device [half shells]; It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide a plurality of toggle clamps to provide an improved lever

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mechanism for closing and sealing the joints and applying the strain at both ends of the saving device [half shells], as taught by Brunhoff.

In regards to Applicant's argument that Brunhoff teaches away, arguments that a reference is non-analogous to or teaches away from the instant invention are not relevant to a rejection based upon anticipation. In re Self, 671 F.2d 1344, 1351, 213 USPQ 1, 7 (CCPA 1982).

In regards to Applicant's argument that there is a long felt need for the invention of the instant application, evidence of long felt need must establish a problem that has existed over a long period of time, and that the invention has actually solved the problem. In re Mixon, 470 F.2d 1374, 176 USPQ 296 (CCPA 1973). The Applicant's original disclosure fails to provide such a resolution.

In response to Applicant's argument that Brunhoff does not solve the problem of the invention of the instant application, it has been held that the mere fact that the reference relied on by the Patent and Trademark Office fail to evince an appreciation of the problem identified and solved by applicant is not, standing alone, conclusive evidence of the nonobviousness of the claimed subject matter. The references may suggest doing what an applicant has done even though workers in the art were ignorant of the existence of the problem. In re Gershon, 152, USPQ 602 (CCPA 1967).

***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Aaron M. Dunwoody whose telephone number is 571-272-7080. The examiner can normally be reached on 7:30 am - 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P. Stodola can be reached on 571-272-7087. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.



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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Aaron M Dunwoody  
Primary Examiner  
Art Unit 3679

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